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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

RALPH W. DUNLAP,

Defendant and Appellant.

B209033

(Los Angeles County  
Super. Ct. No. MA040829)

THE COURT:\*

Ralph W. Dunlap (appellant) appeals from the judgment entered following his negotiated plea of no contest to having committed a lewd act on a child under the age of 14 years. (Pen. Code, § 288, subd. (a).)<sup>1</sup> As agreed, the trial court sentenced him to an eight-year state prison term.

We appointed counsel to represent him on appeal.

After examination of the record, appellate counsel filed an “Opening Brief” in which no issues are raised.

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BOREN, P. J., DOI TODD, J., ASHMANN-GERST, J.

<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

On September 23, 2008, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished this court to consider. No response has been received to date.

On January 25, 2008, the People filed an information charging appellant in count 1, with a violation of section 288a, subdivision (c)(1), oral copulation of a person under the age of 14 years and who was 10 years younger than appellant, and in count 2, with a violation of section 288, subdivision (a), committing lewd acts with a person under the age of 14. Later, another information was filed in case No. MA041900.

Prior to the preliminary hearing in case No. MA041900, the People agreed that appellant could plead no contest in case No. MA040829 to count 2, to having committed a lewd act with a child under the age of 14. The trial court would sentence appellant to an eight-year term in state prison. After the plea, the People agreed that they would dismiss count 1 in case No. MA040829, as well as the new charges in the information, case No. MA041900. Appellant was informed that if the two cases were to be consolidated and tried together, the potential aggregate term of imprisonment was two consecutive terms of 15 years to life.

Appellant agreed to the plea bargain. After waiving the requisite constitutional rights (*Boykin v. Alabama* (1969) 395 U.S. 238, 243; *In re Tahl* (1969) 1 Cal.3d 122, 132), he pled no contest to the charge in count 2 of lewd conduct. The trial court found a factual basis for the plea in the facts adduced at the preliminary hearing. It sentenced appellant to the promised eight-year term in state prison. The trial court then dismissed case No. MA041900 and count 1 of the information in case No. MA040829.<sup>2</sup>

The preliminary hearing transcript disclosed that on Christmas Eve or in the following early morning hours of Christmas, appellant woke up his 10-year-old son, and committed substantial sexual misconduct by rubbing his penis against the boy's stomach. It was later discovered that appellant had also engaged in substantial sexual misconduct with a stepson.

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<sup>2</sup> Apparently, appellant filed a notice of appeal only in case No. MA040829.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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